FARAD CONTINUATION SHEET NO.:
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CIVIL APPLICATION NO.3438 OF 2004
IN
FIRST APPEAL NO.1237 OF 2002

Office Notes, Office Memoranda of coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders.

Mr.R.D.Suryawanshi for Applicants.

Mr.D.R.Mahadik i/by Mr.S.R.Singh for Respondents.

CORAM : S.B. MHASE &
R.S. MOHITE, JJ.
DATED : 11th October 2004

P.C. :

1. Heard both the sides. The 1st Respondent-Insurance Company has deposited a decretal amount of Rs.9,43,060/- with interest. Out of these Rs.9,43,060/-, a sum of Rs.1,54,000/- has already been released to the Applicants.

2. By this Civil Application, the Applicants have approached this Court for releasing the entire amount of Rs.7,89,000/-. The learned Counsel appearing for the 1st Respondent-Insurance

Company has objected for release of such amount. However, it is brought to our notice by the learned Counsel appearing for the Applicants that the 1st Applicant's wife i.e. original Petitioner No.2 in Claim Petition No.793 of 1993 and mother of the deceased, has expired during the pendency of this matter. He has also brought to our notice that the 1st Applicant has heart problem and now he is 74 years old and, therefore, the prayer for release of the amount. He has alternatively submitted that the 50% amount may be released and rest of the 50% amount be released on solvent surety and/or undertaking. However, the learned Counsel for the 1st Respondent-Insurance Company submitted that the amount may not be released unless the Bank Guarantee is furnished.

3. In the facts and circumstances of the case, we find it appropriate to release the amount of Rs.3,50,000/- to the 1st Applicant-father without any surety. The rest of the amount be deposited in any Nationalised Bank for a period of three years, however, sixth monthly interest accrued on that amount be paid to the Applicants. In case the matter is not disposed of within a period of three years, the Trial Court is directed to deposit it for a period of three years consecutively, till the matter is finally disposed of.

4. In view of the above order, the Civil Application is disposed of.

(R.S.MOHITE, J.) (S.B.MHASE, J.)